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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

15 CR 643 (PKC)

5 JARED GALANIS,

6 Defendant.

7 -----x

8 New York, N.Y.
9 January 11, 2017
12:00 p.m.

10 Before:

11 HON. P. KEVIN CASTEL,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

United States Attorney for the
Southern District of New York

16 AIMEE HECTOR

17 REBECCA MERMELSTEIN

BRIAN R. BLAIS

18 Assistant United States Attorneys

19 MURPHY, PEARSON, BRADLEY & FEENEY

Attorneys for Defendant

20 BY: JAMES A. LASSART

21 ALSO PRESENT:

Shannon Bieniek, FBI Agent

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(case called)

MS. HECTOR: Good afternoon, your Honor.

Aimee Hector, Rebecca Mermelstein, and Brian Blais for the government. With us at counsel table is Shannon Bieniek from the FBI.

THE COURT: Good afternoon.

For the defendant?

MR. LASSART: Good afternoon, your Honor. James Lassart appearing on behalf of Jared Galanis. My client is present.

THE COURT: Let me go through the materials I have, and the question will be whether I have everything I should have.

I have a presentence report recommendation and addendum transmitted to me on December 28, 2016, I have a submission from the government dated January 6, and a supplemental submission dated January 10 from the government.

I also have a sentencing memorandum submitted by the defense, which was filed in mid December, it looks like around December 28, if I'm reading that correctly. Of course, there are many helpful exhibits attached to the defendant's submission, including a report by a forensic medical individual who has interpreted certain health records, and there are a series of letters from family members, in-laws, and friends in support of the defendant.

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1 I also have a letter that was submitted by Paul Grand,
2 writing without any particular standing in this matter, former
3 counsel to Defendant John Galanis, and a response from the
4 government dated November 18, 2016.

5 Do I have everything I should have on the subject of
6 sentencing?

7 MS. HECTOR: I believe so, your Honor.

8 MR. LASSART: Yes, your Honor.

9 THE COURT: Has the defendant, in fact, read,
10 reviewed, and discussed with you the presentence report
11 recommendation and addendum?

12 MR. LASSART: He has, your Honor.

13 THE COURT: Does the defendant have any objections to
14 the facts set forth in the presentence report?

15 MR. LASSART: Our objections were noted and are noted
16 in the addendum, your Honor.

17 THE COURT: Are there any that you continue to press?

18 MR. LASSART: No, your Honor.

19 THE COURT: Any objections to the guideline
20 calculation in the presentence report?

21 MR. LASSART: No objection to the guideline
22 calculation.

23 THE COURT: Let me hear from the government. Do I
24 have everything I should have on sentencing?

25 MS. HECTOR: Yes, your Honor, you do.

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1 THE COURT: Any objection to the facts set forth in
2 the presentence report?

3 MS. HECTOR: Your Honor, we do agree that the facts
4 section recites the original indictment that does attribute the
5 phone directly to Jared Galanis. I think everyone is aware
6 that we are all now in agreement that it more accurately should
7 read "a phone subscribed in the name of Jared Galanis." I
8 think we are all on the same page as to the facts.

9 THE COURT: I took it that that was the original
10 indictment, and my understanding is that the phone was used by
11 John Galanis and not by Jared Galanis.

12 Is that correct, Mr. Lassart?

13 MR. LASSART: Yes, your Honor.

14 THE COURT: All right. Now, I understand the
15 government does not agree with the methodology used in
16 calculating the guidelines, but does agree with the ultimate
17 conclusion that defendant is in total offense level 16,
18 criminal history category I?

19 MS. HECTOR: Yes, your Honor.

20 THE COURT: All right. I will now give defense
21 counsel an opportunity to speak on behalf of the defendant.

22 MR. LASSART: Thank you, your Honor.

23 In addition to the submissions that were sent in,
24 I have a few additional comments to make. I think it is
25 important to note that Jared is not a coconspirator in this

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1 matter, and he is guilty, as he pled guilty, to misprision of a
2 felony. It is also important to note that he became aware of
3 his father's criminal impersonation and criminal conduct in
4 2011. He stopped at that time the usage of his name, and
5 ultimately, in 2012, he moved to Maryland for a couple of
6 reasons. One, to help assist in his wife's healthcare, but
7 also to distance himself from the problems that his brother and
8 father were engaged in. Probably his separation is best
9 described by looking at what went on, which resulted in a
10 second indictment in both his father and his brother.

11 THE COURT: Well, let me understand what you just
12 posited. That when he learned that his father was using the
13 e-mail account, it promptly stopped or it caused him to stop
14 immediately?

15 MR. LASSART: Yes. Not only the e-mail account, but
16 the phone.

17 In 2011, he basically discovered a lot of e-mail
18 activities when a subpoena occurred from the SEC.

19 THE COURT: Are you arguing that he didn't commit any
20 crime here?

21 MR. LASSART: No. He concealed. There was some
22 ongoing activity that he became aware of and he concealed it.
23 Also, he wasn't forthcoming with the SEC as to who the drafter
24 of those e-mails were.

25 THE COURT: All right.

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1 MR. LASSART: In other words, he concealed items that
2 he should have revealed.

3 THE COURT: When you say "not forthcoming," he was
4 asked about it and he did not tell them the truth as he knew
5 it?

6 MR. LASSART: Exactly. He basically treated the
7 e-mail as if they were his when he discovered them to the SEC.

8 THE COURT: All right. And tell me about what he did
9 to enable transfers out of the IOLTA account.

10 MR. LASSART: The IOLTA account was primarily active
11 during the course, prior to the 2011 discovery. His brother,
12 he represented his brother on transactional matters.

13 During that time, he would receive what were basically
14 settlement dollars and distribute those settlement dollars out
15 of his IOLTA account based on the direction of his brother.
16 That's what he did.

17 THE COURT: Your position is there was no criminal
18 activity with regard to the disbursement of funds from the
19 IOLTA account, is that what you're saying?

20 MR. LASSART: I am not say there was no criminal
21 activity, but it wasn't Jared's criminal activity. These IOLTA
22 funds came from transactions that his brother engaged in and
23 his father engaged in in which there was criminal conduct.
24 However, Jared's action was basically to treat them as if they
25 were settlement dollars coming out of business transactions.

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1 THE COURT: Well, that may have been how he treated
2 them. What I am trying to get to the bottom of is whether he
3 knew the truth of their origins and treated them as if they
4 were settlement funds. That's an entirely different situation.
5 And it is important that I understand how he directed funds
6 from that account and whether he did so aware of criminal
7 activity by his father and his brother.

8 MR. LASSART: He was unaware of the criminal activity
9 that developed those funds and disbursed them according to the
10 direction of his brother.

11 THE COURT: Thinking that they were lawfully obtained
12 dollars?

13 MR. LASSART: That's right.

14 The funds are accounted for in the distribution, so
15 there wasn't any attempt to in any way structure or hide the
16 direction of the funds or the source of the funds.

17 THE COURT: All right.

18 MR. LASSART: Did I answer your question, your Honor?

19 THE COURT: Thank you.

20 MR. LASSART: Now, the fact of the matter is that the
21 government has gathered a large deal of information regarding
22 Jared's financials, and I think what they will have discovered
23 is that he did not lead a lavish lifestyle, that he is a renter
24 now in Maryland, that he now drives to support his family
25 through Lyft. He is not benefactor of these huge dollars that

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1 were generated from the criminal activity.

2 This conviction ended his legal career, and he is now
3 the essential and primary caregiver for his wife, as we get to
4 the 3553 criteria. In looking at this, the purpose of
5 sentencing is that just punishment, of course, general
6 deterrence, specific deterrence, and rehabilitation, these
7 policies basically direct that a minimal sentence is needed to
8 achieve those goals.

9 Now, one of the critical factors in the 3553 is his
10 care and extremely important care for his disabled wife. He is
11 an essential caregiver, and our medical submissions, I think,
12 explain his role, the necessity of his role, and the terrible
13 disease she suffers from.

14 Now, in conjunction with that, we ask the court to
15 take that into consideration at the time of sentencing.

16 THE COURT: This is the submission from the forensic
17 nurse who has reviewed medical records for the purpose of
18 opining on the subject?

19 MR. LASSART: Yes, your Honor.

20 In addition to that, we have a letter directly from
21 her caregiver, a doctor --

22 THE COURT: The geneticist?

23 MR. LASSART: Yes.

24 THE COURT: I saw that.

25 MR. LASSART: Those are what I am referring to.

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1 THE COURT: OK.

2 MR. LASSART: Now, let me address briefly the
3 restitution issue in the case, that which we received
4 information on in the last few days.

5 In this matter, restitution for Jared should not be
6 assessed as joint several liability with the coconspirators in
7 this case, with the persons who are coconspirators, of which he
8 is not one of them.

9 He did not participate in that conspiracy and the
10 attributable harm, which it's difficult to attribute, I think,
11 and not appropriate to attribute to Jared his conduct as to
12 causing any form of harm in the form of taking of money from
13 the purported victims.

14 What I think the government has relied on is both the
15 Marine case and the Lentil case. We cited the Mariano case.
16 The point of that particular authority in those is that there
17 can be, at times, restitution attributed to misprision of a
18 felony. Those cases are clearly distinguishable from the facts
19 of this case in both of those cases. There was a long-term
20 knowledge and a concealment of a lengthy ongoing fraud, that if
21 it had been identified earlier, would have caused the cessation
22 of some of these losses.

23 In this instance, Jared's conduct, though allowing for
24 some additional harm to victims, was so late in the game, that
25 much of the fraud and the harm of these victims was caused

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1 before his discovery of that in 2011. As a result, a majority
2 of the damage, in our view, was done prior to Jared's
3 discovery, and therefore he should not be penalized in a joint
4 several manner with individuals who created this particular
5 scheme, these schemes.

6 Now, I know some of the issues that the government has
7 raised is that Jared had provided the tools of this to his
8 father, but it should be known that his father was given a
9 phone in 2004 by Jared when he couldn't get a phone and he was
10 just coming out of prison. And he did authorize his father to
11 use his e-mail to assist in dealing with the credit issues of
12 his mother.

13 THE COURT: Well, let's talk about that so that I have
14 a better understanding.

15 What did he authorize in terms of e-mail usage? He
16 authorized John Galanis to have an e-mail account through his
17 law firm, or he authorized John Galanis to use an account
18 which, to other persons, would appear to be an e-mail sent by
19 Jared Galanis?

20 MR. LASSART: My belief is he authorized John Galanis,
21 the way I understand it, to use the account. John then took
22 liberties and created his own e-mail within that account, but
23 also used Jared's. We have e-mails that show John's use of the
24 Google account with different e-mail addresses, but he used
25 Jared's e-mail address.

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1 THE COURT: Well, this is a little confusing to me,
2 given the ease with which one can open a Gmail account in five
3 minutes for free.

4 What was Jared's intent in authorizing his father to
5 use -- was this the sentinel e-mail account?

6 MR. LASSART: Yes.

7 THE COURT: -- using a sentinel account if the father
8 was not associated with sentinel?

9 MR. LASSART: His intent was that his father would
10 deal with his mother's credit. I don't think there was much
11 more thought about it than that.

12 THE COURT: But why wouldn't you say, Dad, come over
13 here. I am going to do this for you. We are going to get you
14 a Gmail account. We'll be done in five minutes. Here you go.

15 MR. LASSART: I can't answer that question. I can
16 just tell you what occurred.

17 What I can tell you is that he allowed his father to
18 use his e-mail account and never monitored that nor gave it any
19 additional thought. What John Galanis ended up doing was
20 created a filter on that e-mail account, and then filtered
21 incoming e-mail from certain individuals into an account that
22 was a file. It was basically for his mother's credit. And
23 that was as a result, they didn't get into the general e-mail
24 that Jared was reviewing, at least most of them didn't, and
25 they would go to this filtered file.

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1 As far as the phone, he basically impersonated Jared
2 in phone calls and used that phone to end up in tracting
3 activities. Jared gave him that phone and he used that number
4 from 2004 on, and then there was a switch of phones and he
5 never monitored what his father was doing on that.

6 THE COURT: How is the phone any different to a person
7 receiving a call on the phone than one purchased at a
8 convenience store as a prepaid phone?

9 MR. LASSART: I'm sorry. I guess I don't understand
10 it.

11 THE COURT: I guess what I'm getting at is the phone
12 number identified with that phone publicly identified as a
13 Sentinel telephone number, so that the person getting the call
14 would think they were getting a call from the law firm, or was
15 it just a randomly assigned number, the same as one would get
16 if you purchased a prepaid phone?

17 MR. LASSART: It was a randomly assigned number. The
18 billing went and subscription was Jared's at the firm, but it
19 wasn't the firm's number.

20 THE COURT: And this would not be something that would
21 be apparent to anyone else in the world?

22 MR. LASSART: That's right.

23 THE COURT: You wouldn't know that you were getting a
24 call on Jared's phone at all?

25 MR. LASSART: That's right.

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1 THE COURT: Unlike the Sentinel e-mail, where you
2 would know the Sentinel name would be in the e-mail address.

3 MR. LASSART: That's correct.

4 THE COURT: Go ahead.

5 MR. LASSART: Now, with all these factors before this
6 court, I would ask the court to consider doing the following:
7 to follow the recommendation of the probation in the PSR.
8 However, if the court does not follow the recommendation in the
9 PSR. I would ask that the court impose a sentence that would
10 allow for home detention. In conjunction with that, of course
11 if there is a need for custodial time. I would ask for an
12 opportunity to have Jared self-surrender.

13 I ask the court to look at this young man and
14 understand the position he was put in by his family, a family
15 whose father was not available during the first 20-some odd
16 years of his life, and the fact of trust he allowed, whether
17 you call it foolish or not, which is largely the type of person
18 you'll see reflected in the various people who wrote on his
19 behalf.

20 They placed him in a terrible position and he reacted
21 improperly once he understood that there was activity going on
22 and you can see it. He's not benefactor of this, and though,
23 to some degree, the activities of his family have ruined his
24 professional career, he is not going to practice law. He can't
25 practice law any longer, and his focus now is on what he can do

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1 to benefit himself in the sense of my family and move on from
2 his life. I think that probation's recommendation is
3 reasonable and I would ask the court to follow that.

4 If the court ultimately, after the discussion from the
5 prosecution, wishes to hear from Jared directly, he is prepared
6 to talk to the court as necessary.

7 THE COURT: All right.

8 MR. LASSART: Thank you, your Honor.

9 THE COURT: Mr. Galanis, this is your opportunity to
10 speak, to address the court directly, to bring to my attention
11 any facts or circumstances that you believe I should take
12 account of. If there is anything you wish to say, this is the
13 time to say it.

14 MR. MADDOX: Thank you, your Honor.

15 THE COURT: I can hear you fine. You can stand up.

16 MR. MADDOX: Thank you, your Honor.

17 I stand before you today, I can honestly tell you that
18 I truly and deeply regret the crime that committed and the harm
19 that I have caused.

20 Concealing the conspiracy is by far the biggest
21 mistake of my life. I put myself and others in my family
22 before the good of others. I wish I could take back those
23 errors. I do, and conduct myself in a way that I know is the
24 right way and a bay that I know I will conduct myself in the
25 future.

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1 I am so ashamed that I was not able to exhibit the
2 judgment and the character that I know I am capable of. I will
3 spend the rest of my life regretting these decisions and
4 figuring out a way to make things better in this world. I
5 don't know that I'll ever be able to restore the harm caused by
6 my bad decisions, but I can tell you that I will try. I will
7 make it my life's work never to make an error like this again.

8 I failed society, my wife, my family, especially my
9 family in Maryland, my friends, I failed myself. A person who
10 does these things is not the person that I have spent so many
11 years building and cultivating, and it is not the person I will
12 be in the future.

13 If given the chance by your Honor, I will plan to
14 continue to be of help to my wife, especially in navigating her
15 difficult health situation, and I plan to continue to push my
16 career in new directions. While I know my work life has been
17 forever altered by what I have done, I do believe I can be a
18 contributing member of society.

19 THE COURT: Thank you, Mr. Galanis.

20 MR. MADDOX: Thank you, your Honor.

21 THE COURT: This is the government's opportunity to
22 speak.

23 MS. HECTOR: Thank you, your Honor.

24 A few responses to what defense counsel has said and
25 what was articulated in his papers.

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1 I think the thrust of the defense argument in favor of
2 Mr. Galanis is that he was a victim in many ways of this fraud.
3 We believe that really understates both his level of
4 culpability and level of involvement.

5 You know, first, focusing on this e-mail account.
6 There are not two e-mail accounts here. This is an e-mail
7 account set up as a law firm personal e-mail account,
8 *JMG@Sentinellaw.com*, subscribed by Mr. Galanis, paid for by
9 Mr. Galanis. He gave access to that account, not a separate --
10 there's not a separate *JohnGalanis@Sentinellaw*. It is that
11 account that he gave access to his father to allegedly for
12 purposes of allowing his father to communicate with credit
13 reporting agencies under the guise of a lawyer. Clearly the
14 purpose of this was to give his father either greater
15 credibility, greater negotiating power, whatever, in
16 communication with these credit reporting agencies.

17 John Galanis had, throughout the course of this case,
18 other e-mail addresses and he could make another e-mail
19 address. So the sort of initiation of this access was
20 fraudulent itself. Mr. Jared Galanis is a lawyer and he has
21 ethical obligations. So that, according to Jared Galanis, was
22 the onset of his father's use of his account.

23 Now, there is no dispute that this account was used
24 extensively in connection with and in furtherance of the fraud.
25 There was e-mails to brokerage accounts, e-mails directing

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1 movement of shares, e-mails directing transfers of shares,
2 e-mails directing wires. Your Honor heard at the trial of
3 Mr. Hurst about how the shares were deposited into an account
4 at Roth and how they moved through various different accounts
5 with different brokerage firms, as particular brokerage firms
6 got concerns about the shares. There was e-mails with Ymer
7 Shahini. There was e-mails with Jason Galanis. There are lots
8 of e-mails relevant to the conduct.

9 Now, defense counsel has proffered this explanation
10 that there was an "elaborate filtering system setup," but we
11 have been provided with no further specificity as to how that
12 filtering system was set up, whose e-mail addresses were
13 filtered. When one said filtered, I guess what comes to mind,
14 could it have been filtered into a sub folder, was that sub
15 folder nonetheless accessible, were responses to those e-mails
16 still in the sent mail. There are so many e-mail addresses and
17 sort of counter parties to these e-mails that it becomes hard
18 to disentangle.

19 So we have an e-mail account that we agree was used
20 by both Jared Galanis and John Galanis. There are e-mails, the
21 content of which has personal information that it is clearly
22 one or the other, but then there is a large segment of e-mails
23 that are more difficult. And the government has endeavored
24 extensively to go through these e-mails and to try to pair it
25 up with phone calls on phones attributed to Jared or John to

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1 try to disaggregate, and it is very difficult to do so.

2 But Jared admitted in his allocution that, at some
3 point, he became aware of this. He says 2011. We don't know,
4 your Honor. There are a lot of e-mails in 2010 along these
5 lines.

6 THE COURT: Yes, but let's look at where we are.

7 MS. HECTOR: Yes.

8 THE COURT: He has admitted his guilt to the crime of
9 misprision of felony. He, through his counsel, asserts that he
10 had guilty knowledge sometime in 2011. While it is relevant to
11 the sentencing decision, it is considerably more relevant to
12 the restitution issue.

13 MS. HECTOR: Fair enough.

14 THE COURT: Certainly on the restitution issue, it's
15 the government's burden of proof. It would seem to me that the
16 construct is correct, that it doesn't begin with joint and
17 several liability as it might in a conspiracy case. But one
18 engages in the exercise of what would have happened to the
19 victims if Mr. Jared Galanis had not committed the crime of
20 misprision of felony.

21 What I am hearing is that he became aware in 2011, and
22 he lied to the SEC about it. Presumably, at the time of the
23 lies to the SEC, I think you're going to tell me the horse was
24 already out of the barn, so that could not have caused anyone
25 injury. I don't know enough about the timing to know what the

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1 consequence of 2011 is, but it seems to me -- and maybe this
2 makes things easier for today's purposes -- that I have 90 days
3 to resolve the restitution issue, and that the government has
4 to sit down across the table from Mr. Lassart -- and maybe
5 since he's in town, this is not a bad day to do it -- and talk
6 about the evidence and see whether or not you can get close to
7 an agreement. And if you can't get close to an agreement, then
8 your alternative is to have a hearing and see whether you can
9 prove your case by a preponderance of the evidence. I think
10 the legal principles, I don't think there is going to be a
11 disagreement in this room as to what those principles are.

12 Now, it is still relevant to the sentencing decision
13 of whether there is evidence that Jared Galanis is not being
14 straight with the court even today on January 11, when he says
15 to his lawyer that he first learned in 2011. But I think that
16 requires more than pointing out that it's difficult. It's the
17 government's burden to show what it has in that regard.

18 MS. HECTOR: Yes, your Honor.

19 I am not surprised that your Honor is coming to this
20 issue, obviously. I don't think, to the extent that we were to
21 provide additional evidence to substantiate or to evidence
22 exactly when Mr. Galanis was likely to have come into greater
23 knowledge, I don't necessarily think it would be a hearing with
24 testimony. I don't frankly think there would be a witness to
25 that. I think it would be greater detail and specificity of

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1 the e-mails and argument around what those e-mails demonstrate
2 as to who was the likely recipient or sender of those e-mails.

3 Your Honor, the government could do that. I agree
4 with your Honor that it is maybe even more relevant with
5 respect to the restitution issue of whether if he had alerted
6 someone to this fraud at the time, whether the loss of these
7 victims would have been prevented. But to the extent that your
8 Honor is interested, for purposes of the appropriate sentence
9 in this case, for the government to provide additional
10 information with respect to the timing of his likely knowledge,
11 we can do that.

12 THE COURT: Well, the problem I have here is this
13 sentencing date has been known for a long time. The government
14 has devoted enormous resources to this case. The government
15 had the opportunity to prepare and did prepare not only a
16 sentencing submission, but a supplemental sentencing
17 submission. I don't think it is appropriate. It may be one
18 thing to require it with regard to the restitution obligation,
19 but this is judgment day. And while it is judgment day for
20 Jared Galanis, it is also judgment day for the government.

21 MS. HECTOR: Certainly, your Honor.

22 I hear you on that, and while we may be able to
23 proffer to your Honor some additional specificity, obviously
24 that may not be adequate in this context.

25 THE COURT: There's a difference between, listen,

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1 the nature of my job is I do a lot of civil cases in this
2 courthouse. What someone could show on a knew or
3 should-have-known standard is not the relevant standard here.
4 You could make out a very compelling case that a reasonable
5 person should have engaged in an inquiry.

6 But for you, maybe not beyond a reasonable doubt, but
7 beyond a preponderance, make out a local blindness case in that
8 direction. If you don't have evidence otherwise, it's not
9 simply enough to show that somebody should have inquired
10 further. That's a standard the law accepts in many arenas, but
11 this is not one of them.

12 MS. HECTOR: Well, your Honor, then, you know, I think
13 it may be most useful to focus on what is not in dispute for
14 purposes of today.

15 I think that is sort of where I began my remarks,
16 which is, you know, it is not in dispute that Jared Galanis
17 provided his father, who had three prior convictions for
18 fraudulent conduct, with access to his law firm e-mail account
19 for the purpose of conducting business. And that, in fact,
20 Mr. Galanis went on to utilize that account in other capacities
21 beyond this initial authority, which was problematic authority
22 from the outset.

23 THE COURT: It sounds to me like there's almost
24 agreement that that was the original sin. Now, whether it's
25 not necessarily the crime to which he's entered a plea of

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1 guilty here, it originates with that.

2 MS. HECTOR: So the account was therefore utilized
3 to conduct a lot of this activity. And just to be clear, you
4 know, the government believes that Jared Galanis was aware of
5 that activity prior to 2011, but that it was utilized to
6 conduct a lot of this activity.

7 I don't think they dispute that Jared Galanis was
8 involved in e-mail correspondence in furtherance of the fraud.
9 They dispute, I think, his level of knowledge. But he
10 certainly -- and I don't think they can dispute this -- was
11 involved in e-mail correspondence around the bringing over of
12 these shares, the depositing of them into accounts, the moving
13 of them, and the transfer of proceeds through his IOLTA account
14 that his father did not have access to.

15 THE COURT: Well, what's been proffered here today is
16 that, with regard to his IOLTA account, this is why I asked the
17 question with regard to that. He had no knowledge he was
18 assisting in a criminal activity. He thought that the transfer
19 was lawful.

20 Now, it doesn't surprise me that a defendant's lawyer
21 might make that assertion. You have evidence that contradicts
22 that assertion.

23 MS. HECTOR: Your Honor, how I would respond to that
24 is Jared Galanis was certainly in communication with Roth
25 Capital. That is the first brokerage firm into which the

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1 Shahini shares were deposited.

2 If your Honor remembers from the trial, the shares
3 came into the account, and Mason Octanis (phonetic) had
4 concerns about the providence of those shares, the
5 appropriateness of those shares, because there was an e-mail to
6 Roth Capital from Jared Galanis attaching documentation, the
7 Barry Finer letters and some other letters that demonstrated
8 that those shares had restrictions on them, and that there were
9 restrictions with respect to the sale of those shares in the
10 United States.

11 Now, there are phone communications from the Jared
12 phone, not the phone that was allegedly used and that we
13 believe to be used by the father, from the Jared phone to Roth
14 Capital around that time to suggest that Jared was the person
15 in communication with Roth Capital. And as you recall, then
16 the shares, Roth Capital rejects the shares and they get moved
17 to C.K. Cooper. Then those shares eventually are sold, and
18 proceeds of those Shahini sales are funneled through the IOLTA
19 account.

20 Now, does that set up a fairly strong argument that
21 Jared Galanis, at least, was aware that shares came into an
22 account? He was aware that there were problems perceived by
23 Roth Capital about these shares, that they get moved to another
24 account. He is aware of the movement of these shares to
25 various accounts and that the shares are sold and then money

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1 gets funneled through his IOLTA account. OK.

2 So I bring forth these facts because while I
3 understand the court's concern that we are sort of engaging in
4 a significant factual dispute here, about which there is, you
5 know, not definitive evidence, I understand that, but I also
6 don't want to stand here and let the court have a misimpression
7 about the state of our belief as to the evidence of Jared's
8 involvement and knowledge in this case.

9 So that sort of goes back to the point that, you know,
10 I don't think they dispute that Jared is involved in the
11 conduct, the underlying conduct. The question, of course, is
12 what is the state of his knowledge. You know, he admitted in
13 his allocution that at some point he became -- without temporal
14 specificity, at some point he became aware of the fraud and
15 concealed it. And we are proffering to your Honor that this
16 e-mail account has numerous e-mails, and it is difficult and,
17 in fact, in some ways I know they don't have a burden to do so.

18 We are hamstrung by the fact that we are given a very
19 incomplete and scant explanation for this elaborate filtering
20 system. If we were given more of an explanation, we might be
21 in a better position to refute it. Because if someone said to
22 us, here is a list of the e-mail accounts that were filtered
23 and this is how they were filtered, we could then go back to
24 those specific e-mails and say, does it make sense that that
25 was what happening? And we can't, so...

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1 THE COURT: Do you want me to adjourn the sentencing?
2 Are you asking me to adjourn the sentencing?

3 MS. HECTOR: Your Honor, can I have a moment?

4 THE COURT: Yes.

5 (Pause)

6 MS. HECTOR: Your Honor, no. We are not requesting
7 to adjourn the sentencing. We would prefer to move forward on
8 the record as it stands right now before your Honor. To the
9 extent that additional work needs to be done with respect to
10 the restitution, we obviously will do that and, you know, and
11 follow your Honor's instructions to meet with Mr. Lassert on
12 that.

13 But I think we prefer to leave it, at this point, that
14 the filtering is something that has been proffered by the
15 defendant, that there is no evidence of its existence or not.

16 THE COURT: Well, as a result of the grand jury's
17 investigation, I assume you had access to the relevant e-mails
18 and to the system?

19 MS. HECTOR: We contacted the service provider, and
20 they unfortunately have no information on their system that
21 could demonstrate whether or not that filtering occurred. So
22 we made efforts to try to substantiate that, but were unable to
23 do so.

24 THE COURT: OK. Anything else?

25 MS. HECTOR: Unless your Honor has further questions,

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1 no.

2 THE COURT: All right. Mr. Lassert, I don't
3 ordinarily do this, but I will extend you an opportunity for a
4 brief response if there is any point that was raised that you
5 feel you wish to respond to.

6 MR. LASSART: Your Honor, I don't see any additional
7 comment on what is a dispute on the facts. I think the court
8 knows. If the court has a question, I would be more than happy
9 to answer it.

10 THE COURT: Thank you.

11 This is the court's statement of reasons for the
12 sentence to be imposed on Jared Galanis. In sentencing the
13 defendant, I have considered all the materials that I
14 referenced at the outset, I have considered the thoughtful
15 comments of Ms. Hector and Mr. Lassert, as well as the sincere
16 statement of Mr. Galanis. I have considered each of the
17 factors set forth in Section 3553(a). I need not recount all
18 that I have considered, but I have considered it all.

19 There is little doubt here about one aspect of the
20 facts, and that is that the defendant has admitted Count Eight
21 of the indictment, that he was aware of his father's
22 participation in a conspiracy to defraud Gerova and he
23 concealed the fraudulent scheme and did not report the same to
24 law enforcement authorities.

25 There is really no dispute that he allowed his father

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1 to have access to his law firm e-mail address, that he arranged
2 for his father to have a phone, and that he effectuated certain
3 transfers out of his lawyer IOLTA account, and further, that he
4 lied to the SEC. There are disputes as to the timing of when
5 he had guilty knowledge, and certainly that's been explored on
6 the record here today. And the court proceeds from the
7 assumption that that guilty knowledge occurred at some time in
8 2011.

9 The defendant is different from many people who have
10 appeared before me in that he grew up initially or he began
11 life in a privileged setting. His family had multiple staff
12 members in their home in Greenwich, and they owned multiple
13 residences in Manhattan, San Diego, Del Mar, Rancho Santa Fe.
14 And then things changed when the defendant was a very young
15 boy, after his father's arrest, and certainly the lifestyle of
16 the family changed radically and his mother became a substitute
17 teacher.

18 I can't imagine that it would be an easy experience
19 for a young boy to see that. Well, Jared Galanis did something
20 right along the way in pursuing an education, in staying
21 productive, and he earned a JD degree from University of San
22 Francisco, and he had a bachelor of arts degree from St. Mary's
23 in California. Someplace along the line he also obtained an
24 MBA degree and a master's of law, which he received about a
25 year ago. Actually, I said MBA. There is some conflicting

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1 information whether it was an MBA or a master of science major
2 in financial analysis. But, in any event, he did obtain an
3 additional degree.

4 He is not a young man. He is 37 years of age. He is
5 a person different from his father. He knew of his father's
6 history. As an individual, he's allowed to love his father,
7 even with all the wrongful conduct he may have engaged in or
8 did engage in and despite his criminal background. But as a
9 smart person, a lawyer, well-educated person, he crossed the
10 line into criminal behavior in knowing of his father's criminal
11 conduct and concealing it and lying about it, and that is why
12 he is called upon to pay a heavy price.

13 He will no longer practice law, and as part of this
14 sentencing proceeding, I am directing him to notify any
15 jurisdiction, state or federal, where he is admitted to
16 practice law of the fact of his conviction and enclosing a copy
17 of the judgment of conviction. That is to avoid doubt, and
18 that will be one of the conditions of supervised release in
19 this case.

20 He has a wife who is also well-educated as a software
21 engineer and a computer science professor. And since 2003, she
22 has suffered from a disease known as Ehlers Danlos syndrome, a
23 group of genetic connective tissue disorders. And while there
24 are a lot of discussions, many discussions, of the disease and
25 of her symptoms, there is just no doubt that his wife has

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1 undergone multiple surgeries, including spinal surgery in
2 December 2015 to implant an intracranial pressure device to
3 monitor the pressure inside the skull, and in July 2016, to
4 treat something known as Eagle syndrome and left internal
5 jugular vein stenosis. His wife receives disability benefits
6 and wears a neck brace daily and is unable to engage in many of
7 the ordinary life functions or engage in them with any great
8 ease. By all reports, the defendant has been a devoted spouse.

9 So this is a particularly difficult sentencing
10 decision in this case. The Office of Probation has given the
11 following recommendation to the court, though the guideline
12 range is 21 to 27 months' imprisonment. They recommend that
13 I sentence the defendant to three months' imprisonment.

14 I don't think that the recommendation quite fits the
15 conduct, but I do conclude that on the confluence of
16 circumstances, including the role in the offense and the
17 extraordinary care that Jared Galanis is called upon to give to
18 his wife, that a sentence of 150 days' imprisonment, of
19 one-year supervised release, and waiver of the fine based on
20 limited assets and limited earning ability, and the imposition
21 of a \$100 special amendment is sufficient but not greater than
22 necessary to achieve the purposes of Section 3553(a).

23 Does the defendant or his counsel have any objection
24 to the court's proposed sentence or to the statement of reasons
25 for that sentence?

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MR. LASSART: No, your Honor.

THE COURT: Same question for the government.

MS. HECTOR: No, your Honor.

THE COURT: The defendant will please stand and I will impose sentence.

Jared Galanis, it is the judgment of this court that you're hereby remanded to the custody of the United States Bureau of Prisons to be imprisoned for 150 days. Following release from imprisonment, you shall be placed on supervised release with the following terms and conditions: You shall not commit another federal, state, or local crime, nor illegally possess a controlled substance, nor possess a firearm or destructive device. You shall refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of placement on supervised release and at least two scheduled drug tests thereafter. You shall cooperate in the collection of DNA.

The standard terms of supervision 1 through 13 are imposed with the following special conditions: You shall pay 15 percent of your gross monthly income towards the satisfaction of any imposition of restitution which I will make in this case, and restitution will be deferred but will be done within the next 90 days.

You shall provide probation with access to any requested financial information and shall not incur credit card

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1 charges or open additional lines of credit without the approval
2 of the probation officer. You shall submit your person,
3 residence, place of business, vehicle and any property,
4 computer, electronic communications, data storage devices, and
5 or other media under your control to a search on the basis that
6 the probation officer has reasonable suspicion that contraband
7 or evidence of a violation of the conditions of release may be
8 found. The search must be conducted in a reasonable time and a
9 reasonable manner. Failure to submit may be grounds for
10 revocation. You shall inform any other residents that the
11 premises may be subject to search pursuant to this condition.
12 You shall refrain from engaging in any legal or financial
13 transactions directly or in an advisory capacity involving your
14 family members, your parents, and all of your siblings. This
15 condition does not apply to you, your spouse, or any children
16 of yours.

17 You shall report to the nearest probation office
18 within 72 hours of release of custody. You may be supervised
19 in the district of residence. As noted, you shall report to
20 any jurisdiction where you're admitted to the bar the fact of
21 this conviction, and enclosing a copy of the judgment of
22 conviction. As noted and for the reasons stated, the fine is
23 waived, and the \$100 mandatory special assessment is imposed.
24 Restitution will be imposed at a later date.

25 Mr. Galanis, you have the right to appeal the sentence

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1 I have imposed in this case. If you cannot afford the cost of
2 an appeal, you may apply for leave to appeal as a poor person.
3 The time limits for filing a notice of appeal are strictly
4 enforced and they are brief. If you request, the Clerk of
5 Court will prepare and file a notice of appeal on your behalf
6 immediately.

7 Do you understand all that?

8 MR. MADDOX: Yes, your Honor.

9 THE COURT: Anything further from the government?

10 MS. HECTOR: Just that any remaining open counts be
11 dismissed.

12 THE COURT: All right. Any open remaining counts as
13 to Jared Galanis are dismissed.

14 Let me hear you with regard to surrender date. Let me
15 propose something and then you can tell me whether it works.

16 March 14 at 2:00 p.m. to the institution designated by
17 the Bureau of Prisons, or if none is designated, then to the
18 United States Marshal for this district.

19 In terms of recommendation as to location, as close as
20 feasible to Maryland, is that the request?

21 MR. LASSART: Yes, your Honor.

22 THE COURT: And that request will be made.

23 Anything else from the defendant?

24 MR. LASSART: No, your Honor. Thank you. We will be
25 surrendering on the Ides of March.

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1 THE COURT: Please be seated, if you will.

2 Mr. Galanis, I choose to believe the statements that
3 you made today. This is an ugly and very costly chapter in
4 your life. You have obligations to your wife, your wife's
5 family, and those who have stood by you in this time of need,
6 as well as to the victims of this fraud. I believe you will
7 make amends, and I sincerely hope that you will get past this
8 episode and live a law-abiding life, and perhaps be an example
9 to others of the costly consequences of a mistake like this.
10 And when I say mistake, it's not a mistake, it's a crime.

11 We are adjourned.

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